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up. The rights of the assignee were insured in every way. He merely stepped into the pledgor's place and took what interest the latter had in the property.

A. A.

**International Law: Expatriation: Suffrage.**—In *Mackenzie v. Hare*,<sup>1</sup> the Supreme Court of California held that the plaintiff, having married a British subject, had forfeited her privilege of suffrage in her native state, although the amendment of October 10, 1911 to section 1 of article 2 of the Constitution of this state extended the privilege to women. Plaintiff was a citizen of the United States prior to her marriage to Mackenzie in 1909, and no event effecting her status as a citizen has occurred since that time, except said marriage. The court was called upon to construe an act of Congress<sup>2</sup> which became law on March 2, 1907, the first sentence of which reads as follows: "That any American woman who marries a foreigner shall take the nationality of her husband." The court held that the plaintiff had denationalized herself by marriage to the alien by virtue of the force of the statute, although against her consent, just as an alien woman who marries an American citizen becomes a citizen of the United States by virtue of the Act of 1855.<sup>3</sup>

The decision invites comment as it presents questions concerning citizenship, expatriation, naturalization, and right of suffrage upon which there has not as yet been judicial determination.

It was not until the Act of 1868<sup>4</sup> that the right of expatriation was declared to be "natural and inherent." But even since the passage of this Act the question remains somewhat unsettled as to whether a native American citizen may expatriate himself. The Act of 1868 deals with aliens who have become citizens by naturalization. A decision<sup>5</sup> which emphasizes this fact, says: "As to whether allegiance can be acquired or lost by any other means than statutory naturalization is left by Congress in the same situation as it was before the passage of the Act." It was held by the court in this decision that a native born woman who had married an alien subject of Italy, permanently residing in the United States did not lose her citizenship. A different conclusion was reached in *Pequignot v. Detroit*,<sup>6</sup> where the court held that the marriage of a naturalized American woman to an alien denationalized her. Still another decision<sup>7</sup> holds that expatriation cannot be determined by marriage alone, but that steps must be taken towards naturalization in a foreign country before that object can be accomplished. Could the plaintiff have registered as a voter if her marriage had taken place prior to the 1907 statute? If the Supreme Court would acquiesce in the recommendation of the Commissioners'

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<sup>1</sup> *Mackenzie v. Hare et al.*, (Aug. 15, 1913) 46 Cal. Dec. 95.

<sup>2</sup> 34 U. S. Stats. 1228 (1907).

<sup>3</sup> 10 U. S. Stats. 604; U. S. Rev. Stats. 1994, (1855).

<sup>4</sup> 15 U. S. Stats. 223; U. S. Rev. Stats. sec. 1999, (1868).

<sup>5</sup> *Comitis v. Parkson*, (1893) 56 Fed. 556.

<sup>6</sup> *Pequignot v. Detroit*, (1883) 16 Fed. 211.

<sup>7</sup> *Jennes v. Zandes*, (1897) 84 Fed. 73.

report<sup>8</sup> of 1906, the question would be answered in the negative, but the weight of authority seems to favor the view that, independent of the Act of 1907, the marriage of a native woman to an alien does not terminate her right of citizenship.<sup>9</sup> It is to be observed that there is much merit in the view which attempts to obviate dual allegiance, a condition which arises in every case of naturalization by marriage, in countries such as England, France, and Germany where the same position is taken as in the United States.

Without the formality of naturalization every alien woman who marries a citizen of the United States becomes perforce a citizen herself.<sup>10</sup> Could she vote in this state? The Constitution of California confers the privilege of suffrage upon, first, native citizens; secondly, those who became citizens under the treaty of Guadalupe-Hidalgo; and thirdly, naturalized citizens. It is submitted that she could not vote, for the reason that she cannot become naturalized,—a process open only to aliens. The barrier could be removed only by constitutional amendment.

In the principal case the plaintiff contended that Congress had overstepped its power in the passage of the Act of 1907 upon the ground that "the power of naturalization, vested in Congress by the Constitution, is a power to confer citizenship, not a power to take it away."<sup>11</sup> The court answers the contention by pointing out that it does not follow that a citizen may not expatriate himself since the adoption of the fourteenth amendment.<sup>12</sup> It is for Congress to establish the status of citizenship, while the matter of suffrage is left to state control with certain restrictions.

D. A. M.

**Municipal Corporations: Perpetual Franchise.**—A case of very serious import recently decided by the Supreme Court of the United States is that of *City of Owensboro v. Cumberland Telegraph and Telephone Company*,<sup>1</sup> in which it is held that a grant made by ordinance in 1889 to an incorporated telephone company, its successors and assigns, of the right to occupy the streets and alleys of city of Owensboro, Kentucky, with its poles and wires for the necessary conduct of a public telephone business, was a grant of a property right in perpetuity beyond the power of revocation by the municipality.

When a state statute or municipal ordinance granting a franchise does not attach any fixed term of years to its duration,

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<sup>8</sup> House Documents, Vol. 72, pp. 152-3; Congress, 2nd sess. 1906-7.

<sup>9</sup> *Shanks v. Dupont*, (1830) 3 Peters 246; *Comitis v. Parkson*, (1893) 56 Fed. 556; *Trimble v. Harrison*, (1840) 1 B. Mon. 140; *Beck v. McGillis*, (1850) 9 Barb. 35; *Ruckgaber v. Moore*, (1900) 104 Fed. 947.

<sup>10</sup> 10 U. S. Stats. 604, U. S. Rev. Stats. 1994, (1855).

<sup>11</sup> *U. S. v. Wong Kim Ark*, (1897) 169 U. S. 649, 703.

<sup>12</sup> *U. S. v. Wong Kim Ark*, (1897) 169 U. S. 649, 704.

<sup>1</sup> *Owensboro v. Telegraph & Telephone Co.*, (June 16, 1913) 230 U. S. 58; 33 Sup. Ct. Rep. 988.